

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to special registration plates

The Department of Transportation hereby amends Chapter 401, “Special Registration Plates,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 307.12 and 321.34(13).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 17A and section 321.34.

Purpose and Summary

The Department is updating Chapter 401 by removing barriers to accepting certain registration plate applications electronically and conforming the rules with 2016 Iowa Acts, chapter 1068, section 1, which amended Iowa Code section 321.34(13) by replacing the provisions for a new special processed emblem license plate with provisions for a special decal license plate.

These amendments strike the requirement that the signatures on the emergency medical services plate application be original and notarized, which will allow the application to be submitted to the Department electronically. The amendments also align the chapter to current Iowa Code section 321.34 by rescinding the rules regarding special processed emblem license plates and adopting rules for a special license plate that contains a space for the display of an organization decal (sticker), including outlining the process for a qualifying organization’s applying to create a new decal and the process for applying for a decal license plate. In addition, the amendments establish the correct dimensions for a decal and clarify the denial, revocation and appeal process.

Prior to the 2016 legislative change, anyone could submit a request to the Department for approval of a new special registration plate with a processed emblem. If the Department approved the request and the design of the proposed emblem, a minimum of 500 paid applications were required before the Department began issuing the plate. If sufficient applications were not received within one year, rules allowed the Department to cancel the approval. An alternative process within the Department’s rules allowed for a state agency to sponsor a special registration plate. However, when the legislature amended Iowa Code section 321.34, the process for requesting a new special processed emblem plate was replaced with a process for requesting a special registration plate containing a space reserved for placement of an organization decal to be designed, produced, and issued by a qualifying organization. New rules 761—401.15(17A,321) and 761—401.16(17A,321) align the chapter to current Iowa Code section 321.34 by providing for a special license plate that contains a space for the display of an organization decal. The plate is available without an additional special plate fee at the time of initial registration of a vehicle and is renewed annually upon payment of the regular annual registration fee for the vehicle. The special decal plate is also available as a personalized plate upon payment of personalized plate fees.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 6, 2018, as **ARC 3820C**. The Department did not receive requests for a public hearing but did receive written comments from the Department of Public Safety. These comments related to the following:

- Whether the rules should prohibit a nonprofit organization from sponsoring or distributing an organizational decal that promotes the work or mission of another nonprofit organization when the sponsoring organization is not involved in that mission or work.
- If one nonprofit organization may sponsor the mission of another, whether there should be a procedure for the second organization to revoke approval if “problems develop with the sponsoring nonprofit.”
- Whether existing registration plates are required to be surrendered if an approved decal is revoked.

After considering the comments, the Department determined no changes from the Notice should be made, and this decision has been communicated to the Department of Public Safety. Iowa Code section 321.34(13) specifies the eligibility requirements for a sponsoring nonprofit organization and limits collaboration with other organizations only to circumstances in which all of the organizations share a common purpose and each organization is a nonprofit organization that meets the eligibility requirements of Iowa Code section 321.34(13), meaning that:

- The primary activity or interest of the organization serves the community, contributes to the welfare of others, and is not discriminatory in its purpose, nature, activity or name;
- The name and purpose of the organization do not promote any specific product or brand name that is provided for sale; and
- The organization is a nonprofit corporation which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code and is organized under the laws of this state or authorized to do business within this state.

The statute also prevents one organization from misappropriating images or logos of another organization and requires permission and agreement, in the circumstances that permit collaboration among organizations with a common mission, by providing that the application for approval of the decal must include “[c]ertification by the person who has legal rights to the decal design allowing use of the design.” The rules conform to these statutory requirements, which do not require further administrative elaboration. Further, to the extent that any eligible organizations collaborate by agreement to distribute an approved decal, each organization retains the right to revoke that agreement and end the collaborative distribution, without further intervention by the Department. In this respect, it is important to remember that (1) the Department’s only authority is to extend permission to distribute the approved decal, not to require or mandate that an approved decal be distributed, and (2) by the terms of Iowa Code section 321.34(13), the nonprofit organization, and not the Department, is responsible for production and distribution of approved decals. Under Iowa Code section 321.34(13), the Department is not authorized to distribute or require distribution of organization decals, and collaborating organizations may discontinue production and distribution according to any terms or circumstances that the organizations determine.

In regard to the surrendering of plates, revocation of a proposed design does not require the surrender of the registration plates to which decals have been applied. As a practical matter, because the scheme authorized by Iowa Code section 321.34(13) allows a person who obtains an organization decal plate to choose any approved decal and requires the person to obtain the decal from the organization authorized to distribute the decal, the Department will not have information in its records that associates a specific plate with a specific decal and will not have the ability to recall the plate based on the decal applied. Further, the organization decal is promotional only and does not affect the validity of the registration plate or the plate’s association with a specific vehicle and owner, and a decal that has been revoked or discontinued may be removed or replaced with another approved decal without the owner’s surrendering the plate to which the decal is affixed and replacing the plate with a new plate. Requiring the surrendering of the plates would result in unnecessary expense to the state and to customers and would be counter to the intent of the legislative change, which authorized the use of organization decals to reduce registration plate inventory and cost.

Adoption of Rule Making

This rule making was adopted by the Department on July 11, 2018.

Fiscal Impact

The amendments to the Department's rules have no known fiscal impact beyond that of the legislative changes the amendments are intended to implement.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on September 5, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **401.2(1)“b”** as follows:

b. Collegiate plates, personalized plates, and special registration plates that have eligibility requirements must be requested using an application form prescribed by the department. Unless otherwise specified, completed application forms for these plates shall be submitted to the department at the following address: Office of Vehicle and Motor Carrier Services, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278. Application forms may be obtained from the office of vehicle and motor carrier services or from any county treasurer's office. Application forms are also available on the department's Web site ~~website~~ at <http://www.iowadot.gov/mvd> ~~www.iowadot.gov~~.

ITEM 2. Amend subrule 401.10(1) as follows:

401.10(1) Application for emergency medical services (EMS) plates shall be submitted to the department on a form prescribed by the department. The applicant and the applicant's service director shall sign the application form certifying that the applicant is a current member of a paid or volunteer emergency medical services agency. ~~The signatures must be original and notarized.~~ For purposes of this subrule, “service director” means a service director as defined in Iowa department of public health rule 641—132.1(147A).

ITEM 3. Rescind rule 761—401.15(321) and adopt the following **new** rule in lieu thereof:

761—401.15(17A,321) Nonprofit organization decal. The following shall apply to all applications for an organization decal under Iowa Code section 321.34(13).

401.15(1) Application to request a new decal shall be submitted to the department on Form 411346. The application shall be subject to the requirements in Iowa Code section 321.34(13) and shall include all of the information and documentation required by Iowa Code section 321.34(13) “c.” An organization applying for approval of a decal shall meet the criteria set forth in Iowa Code section 321.34(13) “b”(1). A group of organizations applying for approval of a decal must have a common purpose as required by

Iowa Code section 321.34(13) “b”(2), and each organization within the group must meet the criteria set forth in Iowa Code section 321.34(13) “b”(1).

401.15(2) The proposed decal shall be designed to be placed in the space reserved for the placement of an organization decal and shall be limited to dimensions of 2.875" in width and 3" in height. As required by Iowa Code section 321.34(13) “d,” the proposed decal design shall not:

- a. Promote a specific religion, faith or anti-religious sentiment.
- b. Have any sexual connotation.
- c. Be vulgar, prejudiced, hostile, insulting, or racially or ethnically degrading.

401.15(3) The office of vehicle and motor carrier services may consult with other organizations, law enforcement authorities, and the general public concerning the decal design.

401.15(4) Within 60 days after receiving the application, the office of vehicle and motor carrier services shall advise the organization of the department’s approval or denial of the application. The department reserves the right to approve or disapprove any decal design.

401.15(5) If the decal is approved and at a later date it is determined that a false application was submitted, or a violation of Iowa Code section 321.34(13) or this chapter occurred, the department shall revoke the decal and the organization shall no longer issue the decal.

401.15(6) If the department denies or revokes the decal design, the department shall send notice of the denial or revocation by certified mail to the organization at the address listed on the application. The revocation or denial shall become effective 20 days from the date of mailing. The organization may contest the decision of the department in accordance with 761—Chapter 13. The request shall be deemed timely if it is delivered or postmarked on or before the effective date specified in the notice.

ITEM 4. Rescind rule 761—401.16(321) and adopt the following new rule in lieu thereof:

761—401.16(17A,321) Special plates with space reserved for a nonprofit organization decal.

401.16(1) Application for special plates with space reserved for an organization decal shall be subject to the requirements in Iowa Code section 321.34(13).

401.16(2) A person shall obtain the decal to display on the special registration plate from an organization approved by the department. A person shall not display a decal on a vehicle registration plate other than a decal approved by the department. An approved decal shall only be affixed to and displayed in the space reserved for placement of the organization decal on the registration plate.

401.16(3) Personalized special plates with space reserved for an organization decal shall be limited to no more than five initials, letters, or combinations of numerals and letters.

ITEM 5. Rescind and reserve rule **761—401.17(321)**.

ITEM 6. Amend rule 761—401.18(321), introductory paragraph, as follows:

761—401.18(321) Combat infantryman badge, combat action badge, combat action ribbon, air force combat action medal, combat medical badge, fallen peace officers and civil war sesquicentennial plates. Following is the application and approval process for special plate requests under Iowa Code section 321.34 as amended by 2011 Iowa Acts, House File 651, section 2 321.34(20C).

ITEM 7. Amend subrule 401.18(1) as follows:

401.18(1) Design.

- a. The plates shall be a standard background plate with a distinguishing processed emblem specific to each plate type, consistent with processed emblems approved pursuant to rule 761—401.15(321).
- b. The distinguishing processed emblem shall be limited to $3" \times 3\frac{1}{2}"$ 2.875" × 3" on the registration plate.
- c. No change.

d. The office of vehicle and motor carrier services may consult with other organizations, law enforcement authorities, and the general public concerning distinguishing processed emblems.

ITEM 8. Amend rule 761—401.35(321) as follows:

761—401.35(321) Revocation of special registration plates—appeal.

401.35(1) Special registration plates shall be revoked if they have been issued in conflict with the statutes or rules governing the plates' issuance. Revoked plates shall be surrendered to the department within 30 days of the date of revocation.

401.35(2) The department shall send the notice of revocation to a person's mailing address by certified mail, and the revocation shall become effective 20 days from the date of mailing. The person may contest the decision of the department in accordance with 761—Chapter 13. The request shall be deemed timely if it is delivered or postmarked on or before the effective date specified in the notice.

ITEM 9. Amend **761—Chapter 401**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 35A.11 ~~as amended by 2011 Iowa Acts, House File 651, section 1~~, 321.34 ~~as amended by 2011 Iowa Acts, House File 651, section 2~~, 321.105, 321.166 and 321L.1 and chapter 17A.

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